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From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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WRITTEN OPINION
(PCT Rule 66)

Date of mailing *(day/month/year)*	13.05.2004
Applicant's or agent's file reference: RJW/5969365	**REPLY DUE** within 3 month(s) from the above date of mailing

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/GB 02/03557	01.08.2002	01.08.2002

International Patent Classification (IPC) or both national classification and IPC
G01B3/10

Applicant
FISCO TOOLS LIMITED et al.

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

I	☒	Basis of the opinion
II	☐	Priority
III	☐	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
IV	☐	Lack of unity of invention
V	☒	Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
VI	☐	Certain documents cited
VII	☐	Certain defects in the international application
VIII	☐	Certain observations on the international application

3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 01.12.2004

Name and mailing address of the international preliminary examining authority:

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I. Basis of the opinion

1. With regard to the **elements** of the international application *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed")*:

Description, Pages

1-22 as originally filed

Claims, Numbers

1-23 as originally filed

Drawings, Sheets

1/8-8/8 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

   These elements were available or furnished to this Authority in the following language: , which is:

   ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
   ☐ the language of publication of the international application (under Rule 48.3(b)).
   ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

   ☐ contained in the international application in written form.
   ☐ filed together with the international application in computer readable form.
   ☐ furnished subsequently to this Authority in written form.
   ☐ furnished subsequently to this Authority in computer readable form.
   ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
   ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

   ☐ the description, pages:
   ☐ the claims, Nos.:
   ☐ the drawings, sheets:

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1,3,5,7,13-15,17-19,21 (negative)
Inventive step (IS)	Claims	16,20 (negative)
Industrial applicability (IA)	Claims	

2. Citations and explanations

see separate sheet

Reference is made to the following documents:

D1: US-A-3415461
D2: US-A-3437281
D3: US-A-3114515
D4: US-A-3443316
D5: US-A-4443944
D6: US-B1-6182916
D7: US-A-1465067
D8: US-A-5137248

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Novelty (Article 33(2) PCT)

1.1 The subject matter of independent **claim 1** is not new:

D1 (Fig. 2; col. 2, l. 21-36) discloses a tape measure having a spooled measuring blade mounted in mounting means (drum 15 and stem 21) within a casing. The blade is rotatable about stem 21. A spring 22 is fixed by screw 25 to stem 21 and interposed between the spooled blade and the inner wall of the case. The spring serves as a brake against displacement of the drum and a such "permits but urges against displacement of the blade with respect to the case".

D2 (Fig. 4; col. 2, l. 18-57) also discloses a tape measure with a blade spooled on a drum. In the embodiment of Fig. 6 a spring 16 which is interposed in the mounting means is used for braking (the spring is rubbing on the casing wall).

In D3 (Fig. 1; col 2, l. 69-col. 3, l. 4) a spring 31 which is also interposed in the mounting means is used for braking the movement of the drum.

1.2 The subject matter of the dependent **claims 3, 5, and 7** is not new, either: In D1 the spring 23 is interposed between the casing and the stem 21. Moreover, in D1

and D2 the spring which is fixed to the drum rotates with respect to the casing and the spooled blade is located on an outer portion of the drum.

1.3 The subject matter of independent **claim 13** is not new, either:

As already pointed out D1-D3 disclose tape measures having rotatable spooling drums in casings. Moreover, in D1-D3 springs are used for braking the movement of the drums and the blades. These brakes are based on friction between the drum and the casing and they are thus suited to stop the movement of the drum ("stop means"). Moreover, they are located to abut against cooperating means on the drum as can be seen from the above cited embodiments of D1-D3. It is noted that also a spring mounted on the drum abuts against respective cooperating means on the drum. Additionally to these embodiments, D2 shows another embodiment (Fig. 5) wherein spring 16 abuts the sidewall of the spooling device.

In D4 (Figs. 1, 12; col. 3, l. 52-col. 4, l. 69) the drum is stopped by a pressure plate 35 and a flange 33 which serve to squeeze the blade therebetween.

D5 (Figs. 1-3; col. 2, l. 33-col. 3, l. 60) uses a ratchet mechanism. Stop means can be seen in the ratchet blocks on the inner side of the casing. They are located to abut against cooperating means on the drum (arm 24 is mounted on the drum).

1.4 The subject matter of **claims 14, 15, and 17** is not new, either: The subject matter of claims 14 and 17 is so unclear that no difference to D1-D5 can be established (see items 3.1 and 3.2). Moreover, the ratchet mechanism of D5 discloses the particular features of claim 15.

1.5 The subject matter of independent **claim 18** is not new, either:

D6 (Fig. 2; col. 2, l. 31-52) shows a tape measure having a spooled measuring blade 13 in a case. D6 discloses to protect the case with respect to impact by a material 20 on the outside of the case. According to D6 the material 20 is used to cover the case partially, eg. at the corners. The latter is a selection of locations according to the vulnerability to impact. Moreover, the resilient material is used to prevent slipping of the tape measure.

D7 (Figs. 1-3; p. 2, l. 11-41) discloses a tape measure having a part 22 at the outer surface of the housing. The part is located at one corner and at the tape

mouth. The part is flexible and it serves to absorb impact of the blade so that damage is avoided.

1.6 The subject matter of dependent **claims 19 and 21** is not new, either: D6 and D7 select the corners; D7 selects also the mouth. Moreover, the subject matter of claim 21 is so unclear (see item 3.2) that no difference to D6 can be established.

2. Inventive Step (Article 33(3) PCT)

2.1 The particular features of the **claims 16 and 20** do not contribute to an inventive activity:

Claim 16: D5 discloses a ratchet mechanism having stop elements on the casing surface. Starting from this embodiment it is obvious to provide the ratchet stop elements arranged in the form of an annular ring. The ring shape reflects the rotational movement of the drum to be stopped.

Claim 20: D6 discloses to coat the corners of a casing with resilient material in order to prevent the casing from slipping away. For exactly the same purpose (preventing slip away of a casing) D8 proposes (col. 1, l. 22-25) to mould-in resilient material at the corners of the casing through respective recesses formed in the casing (see Figs. 1, 2; col. 3, l. 1-56). It is thus obvious to a skilled person to apply this well-known technique of D8 to the casing of D6 in an analogous way. an inventive step is not seen therein.

3. Other Remarks

3.1 The tape measure of claim 14 is only defined by the result to be achieved. Claim 14 fails to define the technical features of the tape measure which enables to achieve this result.

3.2 Claim 17 depends on independent claim 13. Claim 17 intends however to include features of another independent claim (1) and of claims (2-12) dependent on said

claim (1). It is thus unclear which "mixture of features" of two independent claims (1 and 13) shall be defined in claim 17. A respective objection applies to claims 21 and 23 which depend on independent claims 18 and 22, respectively, and which include also features of independent claims 1 and 13.

3.3 There are some inconsistencies between the claims and the description:

Claim 1 defines that resilient means are "interposed in the mounting means between the spooled blade and the case". No embodiment is found wherein the resilient means are arranged in this way. Resilient means can be found between in the sidewalls of the spooling drums and around the axis for holding the spooling drum. Moreover, the description mentions that the method of claim 22 is advantageously applied to provide resilient means according to the first aspect (which are the embodiments of Figs. 2-6). It is obscure how a method of producing casings is linked to drum sidewalls.

3.4 In claim 6 it is unclear if the "side portion" is the "side member".

3.5 Claim 10 depends on claim 10. It seems that it shall depend on claim 9.

3.6 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

3.7 It seems that the method of claim 22 and independent claims which are based on some specific embodiments of the application (represented by claims 2, 4, 6, 8-12) could fulfill the requirements of the PCT concerning novelty and inventive step (Articles 33(2) and (3) PCT). The applicant is thus invited to file respective new claims. When filing new claims the applicant should however take care that the claims are linked by a common inventive concept (Rule 13 PCT). The latter is obtained when all the independent claims contain the same or corresponding special technical features in the sense of Rule 13.2 PCT which contribute over prior art with respect to novelty and inventive step. If this condition is not fulfilled a respective objection concerning lack of unity could be raised in the International Preliminary Examination Report.

3.8 The description should be also brought in line with amended claims Rule (5.1(a)(iii) PCT). To fulfill the requirements of Rule 5.1(a)(ii) PCT, the relevant background art should be mentioned in the description. Which document(s) will represent the relevant background depends on the subject matter of the amended

claims.